

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL EDWARD MANES,

Case No. 1:07-CV-453

Petitioner,

Hon. Richard Alan Enslen

v.

THOMAS K. BELL,

ORDER

Respondent. /

This motion is before the Court on Petitioner Daniel Edward Manes' Objection to United States Magistrate Judge Ellen S. Carmody's Report and Recommendation of June 22, 2007 ("Report") which recommended dismissing Petitioner's Petition for Writ of Habeas Corpus as time-barred pursuant to 28 U.S.C. § 2244(d). This Court now reviews the Report, the Objection, and pertinent portions of the record *de novo* in accordance with 28 U.S.C. § 636(b)(1)(B).

Petitioner has objected to the Magistrate Judge's Report arguing his attorney's malfeasance constitutes an extraordinary circumstance outside of his control and he is entitled to equitable tolling of the one-year statute of limitations. After review of the facts, the Court has decided to reject the Magistrate Judge's Report at this time, not because it disagrees with the Report, but to reserve the difficult question of whether equitable tolling is appropriate in this circumstance pending the resolution of the merits of the case. Accordingly,

IT IS HEREBY ORDERED that Petitioner Daniel Edward Manes' Objection to the Report and Recommendation (Dkt. No. 12) is **GRANTED** to the extent the Report and Recommendation (Dkt. No. 11) is **REJECTED** pending the resolution of the merits of the case.

DATED in Kalamazoo, MI:
August 20, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE